

DEPARTMENT OF EMPLOYMENT AND LABOUR

NO. R. 1743

11 February 2022

LABOUR RELATIONS ACT, 1995

**NATIONAL BARGAINING COUNCIL OF THE LEATHER INDUSTRY OF SOUTH AFRICA:
EXTENSION TO NON-PARTIES OF THE PROVIDENT FUND AMENDING COLLECTIVE
AGREEMENT**

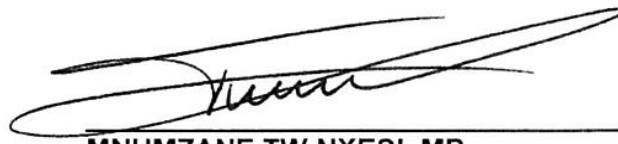
I, **THEMBELANI WALTERMADE NXESI**, Minister of Employment and Labour, hereby in terms of section 32(2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the **National Bargaining Council of the Leather Industry of South Africa**, and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Agreement, shall be binding on the other employers and employees in that Industry with effect from the second Monday after the date of publication of this notice and for the period ending 30 June 2027.



MR TW NXESI, MP
MINISTER OF EMPLOYMENT AND LABOUR
DATE: 02/02/2022

UMNYANGO WEZEMISEBENZI NEZABASEBENZI**UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA 1995****UMKHANDLU KAZWELONKE WOKUXOXISANA PHAKATHI KWABAQASHI NABASEBENZI
BEMBONI YEZIKHUMBA: UKWELULWA KWESIVUMELWANO SABAQASHI NABASEBENZI
SESIKHWAMA SOMHLALAPHANSI ESICHIBIYELAYO, SELULELWA KULABO ABANGEYONA
INGXENYE YESIVUMELWANO**

Mina, **THEMBELANI WALTERMADE NXESI**, onguNgqongqoshe Wezemisebenzi NezabaSebenzi, ngokwesigaba-32(2) soMthetho Wobudlelwano KwezabaSebenzi ka-1995, ngazisa ukuthi isiVumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, esenziwa kuMkhandlu KaZwelonke Wokuxoxisana phakathi kwabaQashi Nabasebenzi Embonini Yezikhumba, futhi ngokwesigaba 31 soMthetho Wobudlelwano kwezabaSebenzi, ka 1995 esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi kuleyoMboni, kusukela ngoMsombuluko wesibili emva kosuku lokushicilelwa kwalesiSaziso kuze kube isikhathi esiphela mhlaka 30 kuNhlanguvana 2027.


MNUMZANE TW NXESI, MP
UNGQONGQOSHE WEZEMISEBENZI EZABASEBENZI
USUKU: 02/02/2022

SCHEDULE**NATIONAL BARGAINING COUNCIL OF THE LEATHER INDUSTRY OF
SOUTH AFRICA****PROVIDENT FUND COLLECTIVE AGREEMENT**

in accordance with the provisions of the Labour Relations Act, No.66 of 1995,
made and entered into by and between the

- a) Southern African Footwear and Leather Industries Association
(SAFLIA)**
- b) South African Tanning Employers Organisation (SATEO)**
- c) Association of South African Manufacturers of Luggage, Handbags
and General Goods;**

(Hereinafter referred to as the "employers" or the "employer organisations" on
the one part), and

- d) National Union of Leather & Allied Workers (N.U.L.A.W)**
and

- e) Southern African Clothing and Textile Workers Union**

(Hereinafter referred to as the "employees" or the "trade unions" of the other
part) being parties to the National Bargaining Council of the Leather Industry
of South Africa.

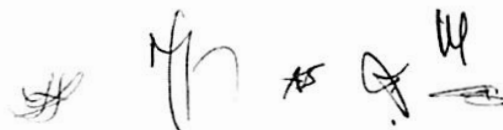


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1. SCOPE OF APPLICATION OF AGREEMENT

- (1) The terms of this Agreement shall be observed in the Leather Industry -
- (a) by all employers who are members of the employer organisation and by all employees who are members of the trade unions, who are engaged and employed in the Leather Industry, respectively;
 - (b) in the Republic of South Africa.
 - (c) Notwithstanding the provisions of subclause (1)(a), the terms of this Agreement shall not apply to non-parties in respect of Clauses 1(1)(a), 2(1), 7.3 and 14.

2. DATE AND PERIOD OF OPERATION

- 1) This Agreement will come into operation for the parties on 25 August 2021 and remain in force for the period ending 30 June 2027.
- (2) This Agreement will come into operation for non-parties on such date as the Minister of Labour extends the agreement to them, and will thereafter remain in force for the period ending 30 June 2027.

3. DEFINITIONS

Words used in this agreement and which are defined in the Labour Relations Act, 1995 shall have the same meaning as in that Act; and unless the contrary intention appears, words importing the masculine gender shall include the feminine.

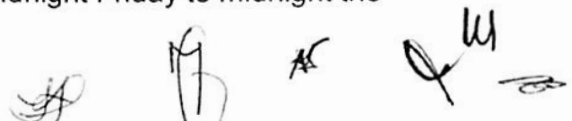
"Act" means the Labour Relations Act, No.66 of 1995, as amended.

"Agreement" means the Provident Fund agreement

"Council" means the National Bargaining Council of the Leather Industry of South Africa.

"Fund" means the Leather Industry Provident Fund which is continued in terms of this Agreement.

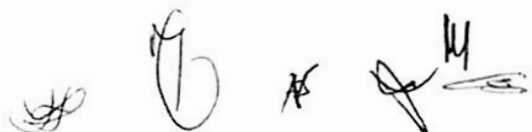
"Fund week" means a week calculated from midnight Friday to midnight the



succeeding Friday.

"Leather Industry" or "Industry" means the industry in which employers and employees are associated --

- (1) for the manufacture, mainly from leather, of -
 - (a) footwear, including all types, but not including bespoke made footwear;
 - (b) attache cases, bags and all other containers designed to hold personal effects, sporting kit, tools and documents;
 - (c) harnesses, bridles, saddlery, saddle bags, leggings, girths, stirrup straps, military equipment other than clothing, ladies' bags, shopping bags, knitting bags, wallets, purses, watch straps, wrist straps, dog collars, dog leads, rugstraps, braces, belts, suspenders, garters, armlets, and all other like articles irrespective of their description but which are designed as substitutes for any of the aforementioned;
 - (d) ladies' and/or children's handbags;
- (2) for the tanning, dressing and fellmongering of hides and skins;
- (3) in establishments in which leather goods are also manufactured, for the manufacture, from materials other than leather, of the articles mentioned in paragraph (1): Provided that this paragraph does not include the manufacture of shopping bags made mainly of paper;
- (4) for the manufacture of all types of footwear from material other than leather;
- (5) for the manufacture of travelling requisites, including trunks, mainly from leather, fibre, wood, cloth, canvas or fabric or any combination thereof;
- (6) for the manufacture of handbags from materials other than leather, in establishments in which leather goods referred to in paragraph (1) are not manufactured, but excluding the manufacture of handbags
 - (a) wholly or mainly from metal;
 - (b) from cardboard (corrugated or otherwise) and/or paper or any compound of paper and/or any like material a constituent part of which is cardboard and/or paper and/or any constituent of paper;
 - (c) wholly or mainly from plastics other than plastic sheeting material;
- (7) for the manufacture-
 - (a) wholly or mainly from leather, of footballs, punchballs, netball balls, and boxing gloves;



- (b) of leather-covered hockey and/or cricket balls;
- (8) in establishments in which leather goods are not manufactured for the manufacture from materials other than leather, of -
 - (a) attache cases, bags and all other containers designed to hold personal effects, sporting kit and documents;
 - (b) harnesses, bridles, saddlery, leggings stirrup straps, shopping bags, wallets, purses, watch straps, wrist straps, rug straps, braces and all other like articles, irrespective of their description, but which are designed as substitutes for any of the aforementioned;
 - (c) travelling requisites, including trunks, from materials other than leather, fibre, wood, cloth, canvas or fabric or any combination thereof;

Provided that paragraphs (a), (b) and (c) shall not be construed to include -

- (i) the manufacture of metal components and/or attachments;
- (ii) the manufacture of canvas bank bags, canvas kit bags, canvas rucksacks, canvas haversacks, canvas sampling bags and canvas explosive bags;
- (iii) the manufacture of any article from rubber;
- (iv) the manufacture of any article or the practice of any trade or occupation covered by the Printing Industry which, without in any way limiting the generally accepted meaning thereof, means that industry which, or undertaking in which employers and employees are associated in the production of printed matter of any nature whatsoever;
- (v) the manufacture of any articles from metal and of any kind of container (with or without metal parts) from fibre and/or cardboard (corrugated or otherwise) and/or paper or any compound of paper and/or any like material a constituent of which is fibre and/or cardboard and/or paper and/or any constituent of paper and/or plastics, but excluding the manufacture, wholly or mainly from fibre or plastic sheeting material, of trunks, attache cases, bags and all similar containers designed to hold personal effects, musical instruments and sporting kit;

Provided further that the word "plastic" as contained in paragraph (v) means any of the group of materials which consists of or contains as an essential



ingredient an organic substance of a large molecular mass and which while solid in the finished state, at some stage in its manufacture has been or can be forced i.e. cast, calendered, extruded or moulded, into various shapes by flow, usually through the application, singly or together, of heat and pressure.

(9) for the -

(a) preparation of cured or uncured hides and/or skins for tanning, and for this purpose "preparation of hides and/or skins for tanning" without detracting from its ordinary or technical meaning, includes any of the following:

Washing, soaking, fleshing, deburring, liming, unhairing, dewooling, the removal of scales, deliming, bating and pickling;

(b) tanning of the cured or uncured hides and/or skins;

(c) retanning and/or dyeing and/or drying and/or softening and/or buffing and/or dressing and/or finishing and/or laminating of leather and/or the combing and/or shearing and/or ironing of hides and/or skins with the wool or hair on;

(d) cutting of upholstery panels from leather:

Provided that, for the purposes of subparagraphs (a) to (c), "hides and skins" includes the following:

Pelts with or without the fur on; sheepskins with or without the wool on; game and goat skins with or without the hair on; all types of reptile skins, and bird skins with or without the feathers on.

"Management Committee" means the committee appointed to administer the Fund in terms of clause 7.

"Member" means any person who contributes or has contributed to the Fund as an employee in terms of this Agreement.

"Wage" means the wage prescribed for an Employee in Column A of the wage provisions of the relevant agreement of the Council and, in the case of the tanning industry, the wage rate prescribed in the agreement for that industry:

Provided that if an Employer regularly pays the Employee an amount higher than this prescribed rate (excluding incentives, overtime and bonus payments), it shall mean such higher amount.

4. MEMBERSHIP

(1) Conditions of membership

- (a) Only employees who have not yet attained the age of fifty-five years may become members of the Fund.
- (b) On admission to the Fund a member shall submit proof of age as is considered satisfactory to the Management Committee.

(2) Employees paid according to prescribed wage rates

Employees for whom Wages are prescribed in any agreement of the Council shall become Members of the Fund subject to the provisions of Rule 9.

(3) Employees paid at non-prescribed wage rates

- (a) An Employer may, by mutual agreement with any of his Employees for whom wages are not prescribed in any agreement of the Council, make application to the Fund for those employees to become members of the Fund.
- (b) Upon such application the Management Committee may agree to admit such employees as members of the Fund and the provisions of the Agreement shall thereupon, with the necessary changes, apply to the Employer and the Employees concerned.

(4) Employees paid at non-prescribed wage rates due to transfer or promotion

- (a) Where an Employee, who earned prescribed wages and was a member of the Fund, is transferred or promoted to an occupation for which wages are not prescribed, his membership with the Fund shall be terminated and he shall be entitled to the benefits payable in terms of the Rules of the Fund, unless the employee elects to continue as a member of the Fund, and his employer agrees to this.
- (b) In such event, the Fund must be notified of this event in writing within one month of the transfer or promotion in question.
- (c) Where an employee has elected to continue as a member of the Fund after his transfer or promotion as set out above, he may thereafter apply in writing to the Management Committee to terminate his membership with the Fund.

The Management Committee may accept the application for

termination in which event the Member shall become entitled to the benefits payable in terms of the Rules of the Fund, provided that the Member become a Member of another provident, pension or retirement annuity fund and his benefit is transferred to that fund.

(5) Record Keeping

Every Employer shall, within seven days of the date of engagement of an Employee, furnish the Secretary of the Fund in writing with the following details in respect of such Employee:-

- (i) date of engagement;
- (ii) full name;
- (iii) maiden name, if applicable;
- (iv) provident fund number, if any;
- (v) gender;
- (vi) date of birth;
- (vii) occupation;
- (viii) wage;
- (ix) previous Employer;
- (x) factory number, if any;
- (xi) income tax number;
- (xii) identity number.

5. CONTRIBUTIONS

5.1 Contributions

- (1) Every Employer shall on each pay-day deduct from the wages of each of his Employees who is a Member of the Fund an amount equivalent to five per cent of the Employee's wage, rounded to the nearest cent.
- (2) To the aggregate of the amounts deducted under sub-clause (1), every employer shall contribute an amount equal to 6% (Six Percent) in respect of each employee who is a member of the fund, and forward the total amount not later than the 15th (fifteenth) day of the following month to the Secretary of the Fund, together with a statement in such form that the Management Committee



may determine from time to time.

(3) Record of statements:

Every Employer shall retain a copy of the statement referred to above and keep it available for inspection for a period of not less than five years.

(4) Interest:

Should any amount due in terms of this clause not be received by the Management Committee by the fifteenth day of the month following the month in respect of which it is payable, the Employer shall pay interest on such outstanding amount at a rate of interest determined by the Management Committee from time to time, subject to the provisions of the Limitation and Disclosure of Finance Charges Act, 1968.

(5) Calculation of interest:

The interest shall be calculated from the first day of the month in which payment became due until the day upon which payment is actually received by the Management Committee.

(6) Waiving of interest:

The Management Committee shall be entitled in its absolute discretion to waive payment of such interest or part thereof.

(7) Personal liability:

If an Employer fails to make the deductions from the Wages of Employees or fails to account to the Fund for amounts deducted from the Wages of Employees, as required of him in terms of the Rules of the Fund, the Employer shall be personally liable to pay such Employee contributions to the Fund.

(8) Where an employee receives wages for one day or more during any Fund week, contributions must be paid by both the employer and employee as though the employee earned a full week's wages.

(9) Where a Member is employed by more than one Employer during a Fund Week, the Employer by whom he was last employed during such Week shall pay both his own Contributions and those due by the Member in respect of the whole Week and may deduct the Contributions due by such Member from his earnings and no further Contribution shall be payable in respect of such Member in respect of that Week.

(10) Where a Member leaves his employment on a Thursday his Employer shall

deduct the Contributions due by such Member from his earnings and pay both his own Contributions and those due by the Member in respect of that Week.

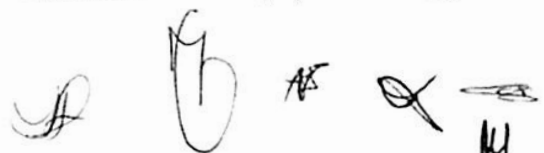
- (11) An Employer shall not deduct the whole or any part of his own Contributions from the remuneration of a Member or receive any consideration from the Member in respect of such Contributions.
- (12) When a Member is on leave on full pay or works short-time, both his own and his Employer's Contributions shall be continued.

5.2 Incorrect Payments

- (1) If a Contribution has been paid to the Fund in error, the Fund shall not be liable to repay such a Contribution after six months has lapsed from the date of such payment.
- (2) Whenever any benefit has been mistakenly paid to a Member as a result of such a Member having made payments to the Fund which were not due, the Management Committee may set off the amount of benefit so paid:-
 - (a) against any sum claimed from the Fund as a repayment of such Contributions which were not due; and
 - (b) against any future benefits that may become due by the Fund to the said Member.
- (3) If a Member has received a benefit to which he is not entitled in terms of the Rules of the Fund and the amount is not set off in terms of the above subclause, the member shall be liable to repay to the Fund the amount of the benefits so received. The Management Committee, however, may in its discretion reduce such amount or completely waive repayment of such amount.

6. BENEFITS

- 6.1 The Fund provides benefits to members in accordance with the Rules of the Fund.
- 6.2 The rules of the fund may include provision for housing benefits whereby the fund provides financial assistance to members for approved housing purposes. In such event, the rules may provide for the liability of members and employers in regard to the deduction of housing loan repayments from



members' remuneration, the payment of such deductions to the fund and the payment of interest on overdue amounts.

7. ADMINISTRATION OF THE FUND

7.1 Management Committee

- ((1)) The Fund shall be under control of a Management Committee which shall be appointed in terms of the Council's constitution and shall consist of an equal number of representatives of the Employers and Employees. Alternates may be appointed in respect of each representative.
- (2) The Management Committee shall elect a Chairperson and Vice-Chairperson from its members and shall prescribe its own rules of procedure, provided that a quorum for the committee shall be at least two representatives of the Employers and two representatives of the Employees.
- (3) Should the Management Committee be unable to perform its duties for any reason, the Council shall perform its duties and exercise its powers.

7.2 Specific powers of the Management Committee

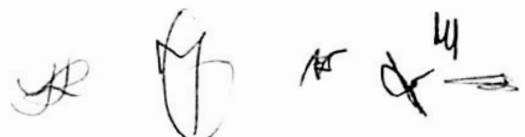
(1) Appointments

The Management Committee shall have the power to appoint an Auditor, an Actuary, a Secretary and staff on such terms and conditions as it thinks fit, and to vary such appointments.

(2) Investment Powers

The Management Committee shall collect all revenue and, subject to any requirements of the Registrar of Labour Relations, shall have the power to deal with money surplus to current requirements, to invest, put out at interest, place on deposit, grant loans and furnish guarantees on behalf of Members for housing purposes, or otherwise deal with such moneys upon such securities and in such manner as it may from time to time determine, and to realise, vary, reinvest or otherwise deal with such securities and other investments as it may from time to time determine; provided that

- (a) if any money not required to meet current expenditure are invested in housing loans to Members, the amount utilised for this purpose shall not exceed 10% of the total assets of the Fund; provided further that



loans granted in terms of this sub-paragraph shall be subject to such conditions as the Management Committee may, with the approval of the Registrar of Labour Relations, determine from time to time;

- (b) sound investment principles shall be applied at all times.

7.3 Agents

- (1) The Council shall designate one or more of its agents to assist in giving effect to the terms of this Agreement and the Rules of the Fund.
- (2) It shall be the duty of every Employer to permit such persons to enter his establishment and to institute such enquiries and to examine such documents, books, wage-sheets, pay envelopes and pay tickets and to question such individuals in order to ascertain whether the provisions of this Agreement and the Rules of the Fund are being complied with.

8. RULES OF THE FUND

The Fund shall be administered in accordance with the Rules of the Fund and the Council shall have the power to prescribe, supplement, amend and revoke Rules relating to the administration of the Fund.

9. INDEMNITY

- (1) Except in cases of wilful and fraudulent wrongdoing, the members of the Management Committee, the Council and their alternates shall not be liable for any loss to the Fund arising out of any of the following:
- (i) improper investments made in good faith;
 - (ii) any act in their bona fide administration of the Fund;
 - (iii) the negligence or fraud of any agent or employee who may be employed although the employment of such agent or employee was not strictly necessary;
 - (iv) any act or omission made in good faith by such members or alternates;
or
 - (v) any other matter or circumstance.
- (2) Any such member or alternate shall be reimbursed by the Fund for any



reasonable costs incurred by him in defending any proceedings, whether civil or criminal, arising out of an allegation involving bad faith in which judgement is given in his favour or in which he is acquitted.

10. EXEMPTIONS

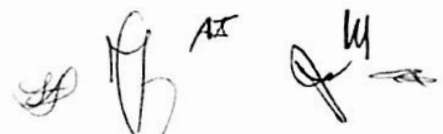
"Exemptions and exemption appeals shall be observed in terms of

"EXEMPTION AND EXEMPTION APPEAL POLICY AND PROCEDURE" in

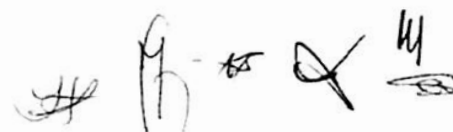
Annexure A"

11. DISPUTE RESOLUTION

- (1) The Secretary of the Council may at any time require a Designated Agent to monitor compliance with the provisions of this Agreement.
- (2) Any person may lodge a complaint or refer a dispute about the interpretation, application or enforcement of this Agreement to the Secretary of the Council for resolution in terms of this Agreement.
- (3) The Secretary of the Council may require a designated agent to investigate the complaint or dispute.
- (4) The designated agent shall investigate the facts surrounding the dispute and if the agent has reason to believe that a collective agreement has been breached, the agent may endeavour to secure compliance with the agreement through conciliation.
- (5) The designated agent must submit a written report to the Secretary on the investigation, the steps taken to secure compliance and the outcome of those steps.
- (6) If in the course of performing a designated agent's duties, an agent discovers what appears to be a breach of the Agreement, the agent:
 - (a) may investigate the alleged breach;
 - (b) may endeavour to secure compliance with the Agreement; and
 - (c) must submit a report to the Secretary on the investigation, the steps taken to secure compliance and the outcome of those steps.
- (7) On receipt of the report, the Secretary may:

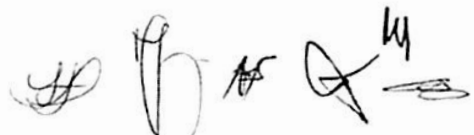
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- (a) require the designated agent to make further investigations;
 - (b) if further conciliation is indicated, appoint a conciliator from the Council's panel of conciliators;
 - (c) refer the dispute for conciliation to the Disputes Committee of the Council;
 - (d) issue a compliance order; or
 - (e) refer the dispute to arbitration in terms of this Agreement.
- (8) If a conciliator is appointed or the dispute is referred to the Disputes Committee, the Secretary must decide the date, time and venue of the conciliation meeting and must serve notices of these particulars on the parties to the dispute.
- (9) Where a dispute is referred to conciliation, the conciliator or disputes committee must attempt to resolve the dispute within a period of 30 days or within an extended period as agreed by the parties to the dispute.
- (10) Where a dispute is not resolved after a conciliation meeting, or after 30 days, or after any extended period as agreed between the parties, the Council must issue a certificate stating that the dispute was not resolved.
- (11) Where the Act requires a dispute to be resolved through arbitration and a certificate has been issued in terms of (10), any party may request the Council to appoint an arbitrator to resolve the dispute. Such request must be made within 30 days of the date of the certificate issued in terms of (10). The parties to the dispute may agree to extend this period or the arbitrator may condone a late referral on good cause shown.
- (12) If a compliance order is issued, that order must be served on the party allegedly in breach of the Agreement.
- (13) The party on whom the order is served may object in writing. The objection must be served on the Council within 14 days service of the order.
- (14) If a party objects, the Secretary may take any of the steps referred to in sub-clause (7) except the issue of another compliance order.
- (15) If a party fails to object, the Secretary may, at any time, apply to have the order made an arbitration award.
- (16) If the dispute is referred to arbitration, the Secretary must appoint an arbitrator from the Council's panel of arbitrators. Arbitrators serving on the panel shall

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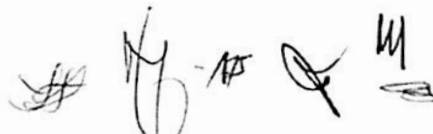
be appointed to arbitrate matters on a rotational basis, unless the parties to the dispute agree on an Arbitrator from the panel, with the next available Arbitrator being appointed should any panel member(s) not be available in terms of such rotation.

- (17) The Secretary, in consultation with the arbitrator, must decide the date, time and venue of the arbitration hearing.
- (18) The Secretary must serve notices of the date, time and venue of the arbitration on:
 - (a) the parties to the dispute;
 - (b) any person who may have a legal interest in the outcome of the arbitration.
- (19) Unless this agreement provides otherwise, the Arbitrator must resolve the dispute through arbitration.
- (20) The arbitrator must conduct the arbitration in a manner that the arbitrator considers appropriate in order to determine the dispute fairly and quickly, but must deal with the substantial merits of the dispute with the minimum of legal formalities.
- (21) Subject to the arbitrator's discretion as to the appropriate form of the proceedings, a party to the dispute, including the Council, may give evidence, call witnesses, question witnesses of any other party, and address concluding arguments to the arbitrator.
- (22) The arbitrator may suspend the arbitration proceedings and attempt to resolve the dispute through conciliation if the Council and the parties to the dispute consent to this.
- (23) In any arbitration proceedings, a party to the dispute may appear in person or be represented by a legal practitioner, a co-employee or by a member, office-bearer or official of that party's trade union or employers' organisation and, if the party is a juristic person, by a director or employee.
- (24) If the party who referred the dispute to the Council fails to appear in person or to be represented at the arbitration proceedings, the arbitrator may dismiss the matter.
- (25) If a party, other than the party who referred the dispute to the Council, fails to appear in person or be represented at the arbitration proceedings, the

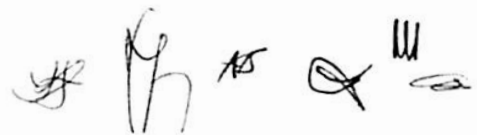
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arbitrator may-

- (a) continue with the arbitration proceedings in the absence of that party; or
 - (b) adjourn the arbitration proceedings to a later date.
- (26) The Secretary may refer disputes to expedited arbitration if the Secretary is satisfied that-
- (a) a compliance order has been issued and the party on whom the order has been issued has not objected to the order;
 - (b) the dispute is capable of being determined by written evidence only;
 - (c) the dispute is only about the interpretation of the Agreement; or
 - (d) the parties to the dispute agree.
- (27) Notwithstanding the provisions of sub-clause (23), the arbitrator may determine the dispute and make the compliance order an award without hearing oral evidence if the arbitrator is satisfied that-
- (a) the parties have been properly served; and
 - (b) it is appropriate in the circumstances to do so.
- (28) Within 14 days of the conclusion of the arbitration proceedings -
- (a) the arbitrator must issue an arbitration award with reasons, signed by the arbitrator; and
 - (b) the Council must serve a copy of that award on each party to the dispute.
- (29) On good cause shown, the Secretary of the Council may extend the period in which the arbitration award and the reasons are to be served and filed.
- (30) The arbitrator may make any appropriate award, including an order for costs, that gives effect to the collective agreement.
- (31) An arbitrator may at his or her own initiative or as a result of an application by an affected party, vary or rescind an award-
- (a) erroneously sought or made in the absence of any party affected by the award;
 - (b) in which there is ambiguity, or an obvious error or omission, but only to the extent of that ambiguity, error or omission; or



- (c) granted as a result of a mistake common to the parties to the proceedings.
- (32) The Secretary of the Council may apply to make the arbitration award an order of the Labour Court under section 158(1) of the Labour Relations Act.
- (33) The provisions of this dispute procedure stand in addition to any other legal remedy through which the Council may enforce a collective agreement or recover any money due.
- (34) (a) If the Arbitrator finds that any party has failed to comply with any provision of the collective agreement which is binding on that party, the Arbitrator may, in addition to any other appropriate order, impose a penalty.
 - (b) The maximum penalty that the Arbitrator may be impose-
 - (i) for a failure to comply with a provision of the collective agreement not involving a failure to pay any amount due to an employee/party is the penalty determined in terms of Table One;
 - (ii) for a failure to comply with a provision of the collective agreement involving a failure to pay any amount due to an employee/party is the penalty determined in terms of Table Two.

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**TABLE ONE:
MAXIMUM PERMISSIBLE PENALTY NOT INVOLVING AN UNDERPAYMENT**

No previous failure to comply	R300 per employee or incident in respect of whom/which the failure to comply occurs i.e. daily, weekly, fortnightly, monthly or otherwise as the case may be.
A previous failure to comply in respect of the same provision	R600 per employee or incident in respect of whom/which the failure to comply occurs. i.e. daily, weekly, fortnightly, monthly or otherwise as the case may be.
A previous failure to comply within the previous 12 months or two previous failures to comply in respect of the same provision within three years	R900 per employee or incident in respect of whom/which the failure to comply occurs. i.e. daily, weekly, fortnightly, monthly or otherwise as the case may be.
Three previous failures to comply in respect of the same provision within three years	R1200 per employee or incident in respect of whom/which the failure to comply occurs. i.e. daily, weekly, fortnightly, monthly or otherwise as the case may be.
Four previous failures to comply in respect of the same provision within three years	R1500 per employee or incident in respect of whom/which the failure to comply occurs. i.e. daily, weekly, fortnightly, monthly or otherwise as the case may be.

**TABLE TWO
MAXIMUM PERMISSIBLE PENALTY INVOLVING AN UNDERPAYMENT**

No previous failure to comply	25% of the amount due, including any interest owing on the amount at the date of the order
A previous failure to comply in respect of the same provision within three years	50% of the amount due, including any interest owing on the amount at the date of the order
A previous failure to comply in respect of the same provision within a year, or two previous failures to comply in respect of the same provision within three years	75% of the amount due, including any interest owing on the amount at the date of the order
Three previous failures to comply in respect of the same provision within three years	100% of the amount due, including any interest owing on the amount at the date of the order
Four or more previous failures to comply in respect of the same provision within three years	200% of the amount due, including any interest owing on the amount at the date of the order

12. ADMINISTRATION OF THE FUND ON EXPIRY OF THE AGREEMENT

- (1)
 - (i) Should this Agreement or any extension thereof expire and no subsequent agreement is negotiated within twelve months from the expiry date for the purpose of continuing the operation of the Fund; or
 - (ii) in the event of the Council being dissolved or ceasing to function at any time prior to the expiry of the said period of twelve months, the Management Committee or such other persons as the Registrar of Labour Relations may designate shall continue to administer the Agreement until expiry of the aforementioned period.
- (2) The members of the Management Committee at the date of expiry of the Agreement or any extension thereof, or at the date at which the Council ceases to function or is dissolved shall be deemed to be members of the Committee for the period mentioned in subclause (1) for the purpose of administering the agreement.
- (3) Any vacancy occurring on the Management Committee may be filled by the Registrar of Labour Relations from Employers and Employees so as to ensure an equality of Employer and Employee representatives in the Management Committee.
- (4) In the event of the Management Committee being unwilling or unable to discharge its duties which, in the opinion of the Registrar of Labour Relations, renders the administration of the Fund impractical or undesirable, he may appoint trustees to continue the function of the Fund.
- (5) Such trustees shall have the following power and shall administer the Fund in the following manner:-
 - (i) pay to Members leaving the Industry the benefits laid down in the Rules on condition that the trustees shall not have the right to pay moneys due to such Members in instalments, except that the periodical payments of benefits already being paid shall be continued until the amounts to such Member's credit have been exhausted;
 - (ii) control and invest moneys accruing to the Fund and to prepare such statements and pay such administrative expenses as may be required

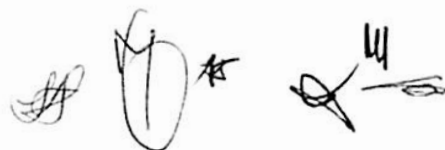


in terms of the Rules.

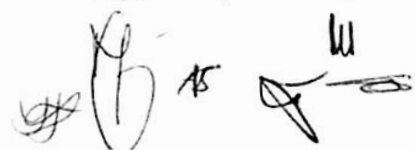
- (6) Should the Registrar of Labour Relations be of the opinion that the Fund should be dissolved he shall appoint a liquidator who shall liquidate the Fund's assets and liabilities in accordance with Clause 13.

13. DISSOLUTION AND LIQUIDATION OF THE FUND

- (1) Should the Council wish to dissolve the Fund it may convene a Special General meeting for this purpose where a decision to dissolve the Fund shall be carried if not less than two-thirds of the Employer representatives and two-thirds of the Employee representatives or their respective alternates present at the meeting vote by a show of hands in favour of dissolution.
- (2) Should the required vote be attained, the meeting shall thereafter appoint a liquidator who shall commence liquidating the assets and liabilities of the Fund in accordance with this clause.
- (3) In the event of the meeting being unable to agree to the appointment of a liquidator the matter shall be reported to the Registrar of Labour Relations who shall be empowered to appoint a liquidator.
- (4) The liquidator appointed shall take the necessary steps to liquidate the debts of the Fund from its unexpended funds and any moneys realised from the assets of the Fund.
- (5) If the accumulated assets are insufficient to meet the claims of all creditors after deduction of the liquidator's fees including the costs of administration and general expenses for winding up the Fund's affairs, the order in which creditors shall be paid shall be as prescribed in the law relating to the distribution of the assets of an insolvent estate;
Provided that for this purpose the liability of Members and Employers shall be limited to the amount of contributions due by them as at the date of dissolution.
- (6) After payment of all the amounts due in accordance with the above, any remaining funds shall be distributed as follows:-
- (i) where the residue is insufficient to meet the Withdrawal Benefits of all



- Members, calculated as at the date of dissolution, a distribution shall be made proportionate to each Member's Withdrawal Benefits;
- (ii) where the residue is sufficient to meet the Withdrawal Benefits of all Members, calculated as at the date of dissolution, a distribution shall be made equal to each Member's Withdrawal Benefits;
 - (iii) should there be a residue after the distribution in terms of the preceding sub-clause, such residue or part thereof shall be allocated on the basis of Early Retirement Benefits calculated as at the date of dissolution; Provided that where such residue is insufficient to meet the total amounts due on that basis, the amount which shall be allocated to each Member shall be the amount which would have been allocated had the residue been sufficient, reduced by the percentage of such shortfall;
 - (iv) should there be any residue remaining after the distribution of the assets in terms of the above, such residue shall be distributed to each Member proportionate to his benefits as calculated above.
- (7) The investments of the Fund shall be realised as and when this is possible and expedient in the Council's opinion and the liquidator shall be empowered to pay the amount, if any, due to each Member in instalments as and when moneys become available.
- (8) No interest shall be payable on any amounts due to a Member.
- (9) When instalments are paid to members an equal percentage of the amount due shall be paid to each Member.
- (10) The Management Committee or the Fund or the Council or its members or the liquidator shall not be liable for any bona fide distribution made in accordance with these provisions and no claims shall fall due to a Member or Nominee or Dependant or any other person who has not been paid by reason of the fact:
- (i) that his identity at the time of payment was not known or unascertainable; or
 - (ii) that he had not been included in the distribution but had failed to draw the attention of the liquidator to his non-inclusion prior to the final distribution having been made.
- (11) In any event the Management Committee of the Fund, the Council or its members or the liquidator shall not be held liable concerning any aspect of the

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liquidation and/or distribution process after the final distribution of all the assets of the Fund, which shall be the date the liquidator certifies that such final distribution has been made.

- (12) The benefits and the amounts to be distributed shall be calculated as at the date of passing of the resolution to dissolve the Fund in terms of this clause.
- (13) In the event of the death of a Member after the date of passing of the resolution to dissolve the Fund, the liquidator shall pay the Death Benefit, but where the Fund is liquidated in terms of clause 12(6) the benefits payable in respect of a deceased Member shall only be equal to the Withdrawal Benefit as provided for in the Rules of the Fund.

14. AMENDMENTS TO THIS AGREEMENT

- (1) Other than amendments to provisions relating to substantive terms and conditions of employment, amendments to this Agreement may be requested by any party to this Agreement during any period up to 30 June 1999, subject to the following:
 - (a) Doubt or a dispute over the interpretation or application of the part requested to be amended must exist.
 - (b) Such dispute must be a consequence of the parties' attempts at the rewording of such part during the simplification exercise, and
 - (c) The doubt or dispute must be capable of being resolved by reference to the wording of the part in question, as it existed in terms of the agreement prior to the simplification exercise.
- (2) Any such dispute or request or amendment shall be referred to the Management Committee of the Council for resolution.
- (3) The Management Committee shall resolve the relevant dispute by -
 - (a) Reverting back to the wording of the part in the Agreement prior to the simplification process, or
 - (b) By a consensual amendment of the wording of the part to give effect to the true meaning of the part



ANNEXURE A**EXEMPTION AND EXEMPTION APPEAL POLICY AND PROCEDURE****1. BACKGROUND**

Section 32(3)(dA) of the Labour Relations Act (the "Act") requires that a Bargaining Council have an effective procedure to deal with applications by non-parties for exemptions from the provisions of its collective agreements.

Accordingly an exemption and exemption appeal policy & procedure in respect of the National Bargaining Council of the Leather Industry of S.A (hereafter referred to as the "Council") for both party and non-party is established and maintained in terms hereof.

2. DEFINITIONS

'Act' means the Labour Relations Act, 1995 (Act 66 Of 1995) as amended

"Agent" means a designated agent of the National Bargaining Council of the Leather Industry of South Africa

"Agreements" means collective agreements concluded in the National Bargaining Council of the Leather Industry of South Africa

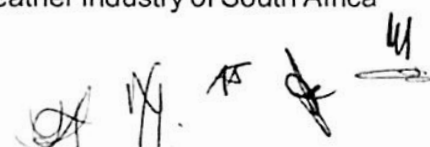
"Applicant" means a party or non-party employer conducting a business under the jurisdiction of the Council, a registered trade union or any person employed in the Industry and who applies for an exemption or appeals against a decision of the Exemptions Committee in terms of this procedure.

"Bargaining Council or Council" means the National Bargaining Council of the Leather Industry of South Africa

"Day" means any day other than a Saturday, Sunday or public holiday, and when any particular number of days is prescribed for the doing of any act, the number of days must be calculated by excluding the first day and including the last day;

'Exemptions Committee' means the National Exemptions Committee or any other sub-committee delegated by the National Exemptions Committee to perform all or part of its functions

"Exemption Criteria" means the exemption criteria contained in the collective agreements of the National Bargaining Council of the Leather Industry of South Africa



“General Secretary” means the General Secretary of the Council

3. EXEMPTIONS AND EXEMPTION APPEALS

3.1 EXEMPTIONS: An Applicant may apply to the Bargaining Council for exemption from the provisions of collective agreements concluded in the Bargaining Council.

3.1.1 The Council must consider applications for exemptions within 30 days of receipt of a valid application.

3.2 EXEMPTION APPEALS: An Applicant who is aggrieved by the Exemption Committee's decision has the right to appeal to the Independent Exemptions Appeal Body appointed by the Council.

3.2.1 The Independent Appeal Body will hear and decide appeals as soon as possible and not later than 30 days after a valid appeal is lodged

3.2.2 A decision of the Independent Exemption Appeal Body shall be final.

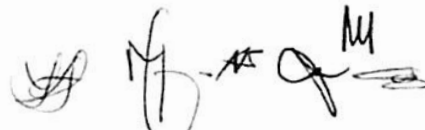
4. EXEMPTIONS COMMITTEE

4.1 Establishment & Composition of the Exemptions Committee:

The Council shall establish a National Exemptions Committee consisting of eight (8) members four (4) of whom are appointed by the employer organisations party to the Council and four (4) appointed by the trade unions party to the Council. The employer organizations are for the time being each entitled to one member, with the most representative being entitled to appoint an additional member. The trade unions to the Council are for the time being entitled to a minimum of one member each with the remaining two positions being filled by the unions' based on their representativeness in the COUNCIL.

4.2 Exemption Committee Meetings

4.2.1 A quorum for the meetings shall be the attendance of at least two party employer members and at least two party trade union members.



4.2.2 Exemption Committee meetings shall be held on an ad-hoc basis in the province in which the applicant conducts business subject to the decision of the Exemptions Committee.

5. THE EXEMPTIONS MANDATE

- 5.1 The Exemptions Committee is mandated by the Council to consider all party and non-party applications for exemption from the collective agreements concluded in the Bargaining Council.
- 5.2 The Exemptions Committee may delegate any of its functions or duties to a District Committee or any other committee of the Council as the case may be.
- 5.3 The Exemptions Committee will consider and determine applications for exemption in a manner it considers appropriate to determine the application fairly and quickly, which may be limited to a consideration of written motivations or the hearing of oral submissions as the case may be.
- 5.4 The Exemptions Committee, when considering an application for exemption must take into account the exemption criteria.
- 5.5 The Exemptions Committee shall have the power to approve, refuse, partly approve or withdraw an application for exemption
- 5.6 The Exemptions Committee, on not approving an application or part thereof or withdrawing an exemption must provide the Applicant with written reasons for its decision.

6. EXEMPTIONS

6.1 APPLICATION PROCESS

- 6.1.1 Applications for exemption from the provisions of a collective agreement must be made in writing on the prescribed application form, and lodged with the local office of the Council.
- 6.1.2 Applications must be motivated and supported by relevant documents, data and audited financial statements (where applicable) and other relevant financial information.
- 6.1.3 Applications that impact employees terms and conditions of employment must be accompanied by written proof that employees and/or their representatives/trade unions have been

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consulted and further accompanied by a record of their support or not of the application.

- 6.1.4 Applications must indicate the period for which the exemption is sought.

6.2 EXEMPTION PROCEDURE

- 6.2.1 The Council must open and maintain a register for each application which records the following:

- 6.2.1.1 date of receipt of application
- 6.2.1.2 reference number
- 6.2.1.3 name of applicant
- 6.2.1.4 brief description of exemption application
- 6.2.1.5 name of the Agreement and the clause/s from which exemption is sought
- 6.2.1.6 date of validation of exemption application
- 6.2.1.7 date of exemption hearing

- 6.2.2 Upon receipt of an application, the date received must be recorded in the register
- 6.2.3 The agent of the relevant District Office shall on receipt of an application scrutinise the application to ensure that the application is complete and valid.
- 6.2.4 Should the agent find the application to be incomplete, the agent shall send written communication to the applicant advising of this and what is required to complete the application
- 6.2.5 After the agent is satisfied that the application is complete, the application shall be considered valid and the agent shall record the date of validation accordingly.
- 6.2.6 Within five days from date of validation the agent shall verify the employer's consultation with the employees/trade union and report in writing whether the employees / trade union support or oppose the application.
- 6.2.7 Within seven days of receipt of the agent's report on the consultation process, the General Secretary shall arrange a

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date, time and venue for the hearing of the application.

6.2.8 The set down date for the hearing must not be later than 30 days of the validation of the application by the Agent.

6.2.9 The General Secretary shall notify the applicant in writing of the date, time and venue of the hearing.

6.2.10 In the event that the applicant does not attend the hearing, the Exemptions Committee will consider the application on the written application and supporting documents.

6.2.11 The General Secretary must within fourteen days of the exemption being granted advise the applicant of such decision in writing and issue a Licence of Exemption setting out the following:

6.2.11.1 The full names of the Applicant.

6.2.11.2 The provisions of the collective agreement from which the exemption has been granted.

6.2.11.3 The conditions subject to which the exemption is granted.

6.2.11.4 The period which the exemption will operate clearly stating the commencement and expiring dates.

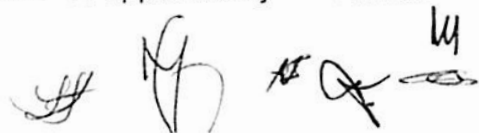
6.2.12 Where the Committee does not approve an Application or part thereof or when deciding to withdraw an Exemption, the General Secretary must advise the applicant in writing within fourteen days of the date of such decision and provide the Applicant with reasons therefor.

7. EXEMPTION APPEALS

7.1 Establishment of an Independent Appeal Body

7.1.1 In terms of section 32(3)(e) of the Act, the Council creates and maintains an Independent Exemptions Appeal Body to hear and decide appeals against an Exemptions Committee's refusal or partial refusal to grant an exemption or its withdrawal or partial withdrawal of an exemption.

7.1.2 An Independent Appeal Body must be appointed by the Council

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and may consist of one or more persons, as determined by the Council

- 7.1.3 No representative, office-bearer or official of a trade union or employers' organisation party to the Council may be a member of the Independent Exemptions Appeal Body.

7.2 APPLICATION PROCESS & PROCEDURE

- 7.2.1 An Applicant aggrieved by an Exemptions Committee's decision shall within **30 days** of being notified of the Exemptions Committee's decision have the right to appeal to the Independent Exemptions Appeal Body.
- 7.2.2 Should the appellant show good cause, the Independent Appeal Body may condone a late appeal.
- 7.2.3 A valid notice of appeal must be in writing clearly setting out the grounds on which the appeal is based and be accompanied by relevant supporting documentation.
- 7.2.4 Upon receipt of an appeal application, the General Secretary shall forward the appeal application together with the original application for exemption and supporting documents to the Independent Appeal Body for a decision
- 7.2.5 The General Secretary in consultation with the Independent Appeal Body will arrange a date, time and venue for the appeal hearing. The date of the hearing shall not be later than 30 days from which a valid appeal was filed with the Council.
- 7.2.6 The Independent Appeal Body shall hear and determine appeals in any manner it considers appropriate to determine the application fairly and quickly.
- 7.2.7 The Independent Appeal Body shall render a decision within fourteen days from the last date of the appeal hearing
- 7.2.8 Should the Independent Appeal Body reverse a decision of the Exemptions Committee, the Council must issue the applicant with a licence of exemption accordingly

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7.2.9 The Independent Appeal Body has discretion to order against the appellant payment of all costs incurred by the Council in arranging and conducting the appeal in the event of it upholding the decision of the Exemptions Committee

8. EXEMPTION CRITERIA

The Exemptions Committee and Independent Appeal Body must when considering an exemption application/appeal, take into account the following criteria:

- (a) any written and/or verbal substantiation provided by the applicant
- (b) fairness to the employer, its employees and other employers and the employees in the industry;
- (c) whether an exemption, if granted, would undermine this Agreement or the collective bargaining process;
- (d) whether it will make a material difference to the viability of a new business, or a business previously outside the jurisdiction of the Council;
- (e) unexpected economic hardship occurring during the currency of The Agreement, and job creation and/or loss thereof.
- (f) the infringement of basic conditions of employment rights;
- (g) the fact that a competitive advantage might be created by the exemption;
- (h) comparable benefits or provisions where applicable;
- (i) the applicant's compliance with other statutory requirements such as the Occupational Injuries and Diseases Act or Unemployment Insurance; or
- (j) any other factor which is considered appropriate.

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SIGNED AT DURBAN ON THE 29th DAY OF SEPTEMBER 2021

J J V VYMETAL, Member of the Council

M J OOSTHUIZEN, Member of the Council

H STRAUSS, Member of the Council

A O BENJAMIN, Member of the Council

V MEMBINKOSI, Member of the Council

S NAIDOO, General Secretary of
the Council

J. V. Vymetal
M. J. Oosthuizen
H. Strauss
A. O. Benjamin
V. Membinkosi
S. Naidoo